

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Gary K. Michelson, M.D.

Serial No: (Div. of 10/094,467)

Filed: November 20, 2003

For: EXPANDABLE INTERBODY SPINAL
FUSION IMPLANT WITH EXPANSION
CONSTRAINING MEMBER AND METHOD
FOR USE THEREOF

Prior Application Information:

Group Art Unit: 3732

Examiner: P. Philogene

22386 U.S.PTO
10/719424
112103



MS PATENT APPLICATION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

CONTINUING APPLICATION TRANSMITTAL

Transmitted herewith for filing is a Continuation Divisional Continuation-In-Part application under 37 C.F.R. § 1.53(b) of prior patent application No. 10/094,467, filed March 8, 2002.

- Applicant claims small entity status under 37 C.F.R. §§ 1.9 and 1.27.
- 24 total application pages including specification, claims (41 total and 3 independent), and abstract are enclosed.
- A newly executed Declaration and Power of Attorney is enclosed will follow.
- A copy of the Declaration and Power of Attorney from the prior application is enclosed.

The entire disclosure of the prior application, from which an oath or declaration is supplied, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

- 7 sheets of formal drawings (A4 paper; Figs. 1-17) are enclosed.
- The prior application is assigned of record to: _____.
- The power of attorney in the prior application is to at least one of the following: MARTIN & FERRARO, LLP; Thomas H. Martin, Reg. No. 34,383; Amedeo F. Ferraro, Reg. No. 37,129; and Todd M. Martin, Reg. No. 42,844.
 - The power appears in the original Declaration of the prior application.
 - Since the power does not appear in the original Declaration, a copy of the power in the prior application is enclosed.
- A certified copy of _____ Patent Application No. _____ filed _____ from which priority is claimed under 35 U.S.C. § 119 is enclosed.
- Information Disclosure Statement (IDS) with Form PTO-1449 is enclosed.
- Amend the specification by rewriting paragraph 1 on page 1 to read as follows:

--This is a continuation divisional of application Serial No. _____, filed _____, and claims benefit of U.S. Provisional application No. _____, filed _____, all of which are incorporated herein by reference.--

Cancel Claims _____
 An Amendment is enclosed.

CALCULATION OF FEES							
ITEM		TOTAL NO. OF CLAIMS		NO. OF CLAIMS OVER BASE	LG/SM \$ ENTITY FEE		\$ FEE
A	TOTAL CLAIMS FEE	41	-20	21	LG=\$18 SM=\$9	\$18	378.00
B	INDEPENDENT CLAIMS FEE*	3	-3	0	LG=\$86 SM=\$43	\$86	-0-
C	SUBTOTAL - ADDITIONAL CLAIMS FEE (ADD FINAL COLUMN IN LINES A + B)						\$ 378.00
D	MULTIPLE-DEPENDENT CLAIMS FEE						LARGE ENTITY FEE = \$290 SMALL ENTITY FEE = \$145 \$ -0-
E	BASIC FEE						LARGE ENTITY FEE = \$770 SMALL ENTITY FEE = \$385 \$ 770.00
F	TOTAL FILING FEE (ADD TOTALS FOR LINES C, D, AND E)						\$ 1,148.00

A fee in the amount of \$1,148.00 to cover the above fees is to be charged to Deposit Account No. 50-1066.

Correspondence Address: Customer No. 22882
 Martin & Ferraro, LLP
 1557 Lake O'Pines Street, NE
 Hartville, Ohio 44632
 Telephone: (330) 877-0700
 Facsimile: (330) 877-2030

The Commissioner is hereby authorized to charge any deficiency for the following fees associated with this communication or credit any overpayment to Deposit Account No. 50-1066. **A copy of this sheet is enclosed.**

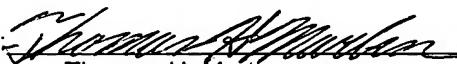
Any additional filing fees required under 37 C.F.R. § 1.16

Any patent application processing fees under 37 C.F.R. § 1.17

PETITION FOR EXTENSION. If any extension of time is necessary for the filing of this application, including any extension in the parent application, Serial No. 10/094,467, filed March 8, 2002, for the purpose of maintaining copendency between the parent application and this application, and such extension has not otherwise been requested, such an extension is hereby requested, and the Commissioner is authorized to charge necessary fees for such an extension to our Deposit Account No. 50-1066. A duplicate copy of this paper is enclosed for use in charging the deposit account.

Respectfully submitted,
 MARTIN & FERRARO LLP

Date: November 20, 2003

By: 
 Thomas H. Martin
 Registration No. 34,383

1557 Lake O'Pines Street, NE
 Hartville, Ohio 44632
 Telephone: (330) 877-0700
 Facsimile: (330) 877-2030

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Gary K. Michelson, M.D.)
Serial No.: (Div. of 10/094,467)) (Group Art Unit: 3732)
Filed: November 20, 2003) (Examiner: P. Philogene)
For: EXPANDABLE INTERBODY SPINAL)
FUSION IMPLANT WITH EXPANSION)
CONSTRAINING MEMBER AND)
METHOD FOR USE THEREOF)

MS PATENT APPLICATION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

CERTIFICATE OF MAILING VIA U.S. EXPRESS MAIL
Express Mail Mailing Label No. ET692326360US
Date of Deposit: November 20, 2003

I hereby certify that:

1. Continuation Application Transmittal Form (in duplicate; \$1,148.00 filing fee charged to Deposit Account No. 50-1066)
2. 24 total application pages including specification, claims (41 total and 3 independent), and abstract
3. Copy of Declaration and Power of Attorney from prior application
4. 7 sheets of formal drawings (A4 paper; Figs. 1-17)
5. Information Disclosure Statement with Form PTO-1449
6. Self-addressed return postcard receipt

are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service with sufficient postage under 37 C.F.R. § 1.10 on the date indicated above and are addressed to:

MS PATENT APPLICATION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Date: November 20, 2003



Sandra L. Blackmon

1557 Lake O'Pines Street, NE
Hartville, Ohio 44632
Telephone: (330) 877-0700
Facsimile: (330) 877-2030